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NOTIFICATION

No. LA4-1171|1955. *14th October 1955.*

The following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum attached to it, is published as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Travancore-Cochin Legislative Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

33/3357 B.

THE TRAVANCORE-COCHIN ELECTRICITY SUPPLY UNDERTAKINGS (ACQIUSITION) BILL.

A Bill to provide for the acquisition of undertakings in the State of Travancore-Cochin supplying electricity.

Preamble.—Whereas it is expedient in the public interests that the business and service of the generation and supply of electricity in the State of Travancore-Cochin be carried on by the State to the complete exclusion of all other persons inclusive of citizens and local authorities;

And whereas it is necessary for the said purpose to provide for the acquisition of undertakings in the State of Travancore-Cochin supplying electricity;

Be it enacted in the Sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Travancore-Cochin Electricity Supply Undertakings (Acquisition) Act, 1955.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

2. *Interpretation.*—(1) In this Act, unless the context otherwise requires:—

(*a*) "account year" means the licensee's financial year;

(*b*) "accredited representative" means the representative appointed under Section 7;

(*c*) "annual account" means the account of the undertaking rendered to the Government annually under and in accordance with the Electricity Act, or where no such account has to be rendered under that Act, the account of the undertaking normally made up for the account year of the undertaking and audited by a certified auditor;

(*d*) "document" in relation to an undertaking includes its books, accounts, registers, maps and plans;

(*e*) "Electricity Act" means the Indian Electricity Act, 1910 (Central Act IX of 1910);

(*f*) "Electricity Supply Act" means the Electricity (Supply) Act, 1948 (Central Act LIV of 1948);

(*g*) "fixed assets" includes works, spare parts, stores, tools, motor and other vehicles, office equipment and furniture;

(*h*) "intangible assets" means any amount paid on account of goodwill, under-writers' commission and such preliminary and promotional expenditure shown as a debit in the capital account of the undertaking, as has fairly arisen in promoting electricity supply ;

(*i*) "licensee" means a person, licensed under Part II of the Electricity Act to supply electrical energy, or a person who has obtained sanction under Section 28 of that Act to engage in the business of supplying electricity and in relation to an undertaking taken over by the Government before the commencement of this Act or an undertaking which has vested in the Government under Section 4, the person who was the licensee at the time the undertaking was taken over or vested in the Government, as the case may be, or his successor-in-interest ;

(*j*) "prescribed" means prescribed by rules made under this Act ;

(*k*) "State" means the State of Travancore-Cochin ;

(*l*) "vesting date" means, in relation to an undertaking, the date fixed under Section 4, sub-section (1) as the date on which the undertaking shall vest in the Government or in case the undertaking was taken over by the Government before the commencement of this Act, the date on which it was taken over ;

(*m*) "works" includes electric supply lines and any lands, buildings, machinery or apparatus, required to supply energy and to carry into effect the objects of a licence or sanction for the supply of electricity, granted under the Electricity Act.

(*n*) other expressions shall have the meanings respectively assigned to them in the Electricity Act or the rules thereunder.

(2) Any reference in this Act to the vesting of an undertaking in the Government shall, in the case referred to in Section 6 (2) (*a*) be construed as a reference to the vesting in the Government of the property, rights, liabilities and obligations specified in that section.

3. *Application of Act.*—(1) This Act shall apply to all undertakings of licensees including—

(*a*) undertakings in respect of which notice for compulsory purchase has been served under Section 7 of the Electricity Act, such undertakings not having been taken over before the commencement of this Act; and

(*b*) undertakings which have been taken over by the Government before the commencement of this Act in respect of which,

(i) the basis of compensation has not been agreed upon between the Government and the licensee before such commencement or,

(ii) it has been agreed upon between the Government and the licensee that the basis of compensation shall be regulated by an Act passed by the State Legislature.

(2) Any notice given under Section 7 aforesaid in respect of any undertaking, in pursuance of which notice the undertaking has not been taken over before the commencement of this Act, shall lapse and be of no effect, and save as otherwise provided in Section 22, sub-section **(1)**, of this Act, the Electricity Supply Act shall apply to the undertaking, from the commencement of the account year in which this Act comes into force, to the same extent as it would have applied if the notice had not been served.

Explanation :—There shall be no obligation on the part of the Government to purchase any undertaking in pursuance of any notice given as aforesaid, nor shall the service of such notice be deemed to prevent the Government from taking any proceeding *de novo* in respect of the undertaking under this Act.

4. *Power of Government to take over any undertaking.*—(1) The Government may, in respect of any undertaking not taken over by them before the commencement of this Act, by order in writing, declare that it shall vest in them on the date specified therein, such date not being earlier than four months from the date of the declaration:

Provided that the Government may, from time to time, postpone such date, so however that the postponed date shall not be later than one year from the date originally fixed.

(2) Every order under sub-section (1) shall be served on the licensee in the prescribed manner and shall also be published in such manner as the Government think fit.

5. *Compensation Payable to a licensee.*- The compensation payable to a licensee on whom an order has been served under Section 4 or whose undertaking has been taken over before the commencement of this Act, shall be determined under any one of the Basis, A, B and C specified below, as may be chosen under Section 8.

(1) Basis A :—(i) The compensation payable under this basis shall be an amount equal to twenty times the average net annual profit of the undertaking during a period of five consecutive account years immediately preceding the vesting date.

Explanation :—For the purpose of this clause, the net annual profit shall be determined in the manner laid down in Part A or Part B, as the case may be, of Schedule I.

(ii) No annual profit over and above **10** per cent. of the capital shall count for the calculation of compensation under this basis.

(2) Basis B:—The compensation payable under this basis shall be the aggregate value of all the shares constituting the share capital of the undertaking, reckoned as shown below :—

(*a*) In the case of shares issued on or before the 31st March 1951, the value of each share shall be reckoned as its average value as arrived at from the quotations for the shares as given in the official list of the Madras Share Market on the 15th day of each month and where such market was closed on that date, the quotation on the next working day, during the period of three years commencing on the 1st April 1951 and ending on the 31st March 1954 :

Provided that this clause shall not apply if any one or more of the different classes of shares constituting the capital of the undertaking were not being regularly quoted in such market during the period of three years aforesaid, or if such quotations during the whole of any one of those three years were not based on actual transactions in such year.

(*b*) In the case of shares issued on or before the 31st March 1951, if clause (*a*) does not apply but there have been *bonafide* transfers in each of the different classes of shares in every one of the three years aforesaid, and such transfers have been duly registered in the appropriate books of the licensee, the value of each share of each such class shall be reckoned at one-third of the aggregate of its three annual average values for the three years, the average value for each year being determined from the transactions in that year.

(c) Where the amounts called for in respect of any share referred to in clause (a) or clause (b) are in arrears, the value of such share shall be taken to be a sum which bears to its value as reckoned under clause (a) or clause (b), as the case may be, the same proportion as the amount paid up bears to the full amount payable in respect of the share.

(*d*) In the case of shares issued after the 31st March 1951 their aggregate value shall be taken to the amount actually paid in respect theirof (including the premium, if any), together with an additional sum by way of solatium, calculated at the rate of two per cent for every completed year preceding the vesting date on the amount so paid which was in existence during the whole of such year as shown in the licensee's books :

Provided that no part of such amount shall be entitled to a solatium exceeding ten per cent there of.

Explanation :—This basis shall not apply unless clause (a) or clause (b) is applicable.

(3) Basis C :—The compensation payable under this basis shall be the aggregate value of the amounts specified below : —

(i) the book value of all completed works in beneficial use pertaining to the undertaking and handed over to the Government (excluding works paid for by consumers) less depreciation calculated in accordance with Schedule II ;

(ii) the book value of all works in progress handed over to the Government, excluding works paid for by consumers or prospective consumers ;

(iii) the book value of all stores including spare parts handed over to the Government and in the case of used stores and spare parts, such sum as may be decided upon by mutual agreement between the Government and the licensee:

(iv) the book value of all other fixed assets in use on the vesting date and handed over to the Government less depreciation calculated in accordance with Schedule II;

(v) the book value of all plant and equipment existing on the vesting date but no longer in use owning to wear and tear or absolescence, to the extent such value has not been written off in the books of the licensee less depreciation calculated in accordance with Schedule II;

(vi) the book value of all intangible assets, to the extent such value has not been written off in the books of the licensee;

(vii) the amount due from the consumers in respect of every hire-purchase agreement referred to in Section 6(2) (a) (ii) less a sum which bears to the difference between the total amount of the instalments and the original cost of the material or equipment, the same proportion as the amount due bears to the total amount of the instalments;

(viii) any amount paid actually by the licensee in respect of every contract referred to in Section 6 (2)(a)(iii);

(ix) an additional sum by way of solatium—

(*a*) in case the licensee is a person licensed under Part II of the Electricity Act, at the rate specified in the licence in respect of compulsory purchase or where no rate is specified in the licence, at fifteen per cent on the values referred in sub-clauses (i) and (iv), at the rate of ten per cent on the value referred to in sub-clause (ii), and at the rate of five per cent on the value referred to in sub-clause (iii);

(*b*) in case the licensee is a person who has obtained sanction under Section 28 of that Act to engage in the business of supplying electrical energy, at the rate of ten per cent on the values referred to in sub-clauses (i) and (iv) and at the rate of five per cent on the values referred to in sub-clauses (ii) and (iii).

Explanation:—(1) For the purposes of Basis C, the book value of any fixed asset means its original cost, and shall comprise—

(i) the purchase price paid by the licensee for the asset, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use as shown in the books of the undertaking;

(ii) interest charges on capital expenditure incurred from borrowed money and shown in the books of the undertaking as properly attributable to the asset up to the date of bringing it into beneficial use, at a rate not exceeding six per cent per annum;

(iii) cost of supervision actually incurred but not exeeding fifteen per cent of the amount referred to in paraph (i).

(2) Where any asset was acquired after the expiry of the period to which the latest annual account relates, or where no annual account has to be rendered under the Electricity Act, the book value of the asset shall be such sum as may be decided upon by mutual agreement between the Government and the licensee.

6. *Vesting of the undertaking or assets*:- (1) If compensation is payable in respect of an undertaking under Basis A or Basis B, all property belonging to the undertaking including fixed assets, cash securities, investments, documents and the like and all its rights, liabilities and obligations as on the vesting date shall vest in the Government:

Provided that liabilities and obligations not incurred in a *bona fide* manner shall not vest in the Government—

(i) in so far as they are in excess of the value on the vesting date of the corresponding assets, if any, vesting in the Government; or

(ii) where there are no cerresponding assets which vest in the Government.

Explanation:—For the purposes of this sub-section, "undertaking" includes every business carried on by the licensee, the funds of which form part of the funds of the licensee.

(2) (a) If compensation is payable in respect of an undertaking under Basis C, only the property, rights, liabilities and obligations specified herein shall vest in the Government on the vesting date:—

(i) all the fixed assets of the licensee and all the documents relating to the undertaking ;

(ii) all the rights, liabilities and obligations of the licensee under hire-purchase agreements, if any, for the supply of materials or equipments made *bona fide* before the vesting date ;

(iii) all the rights, liabilities and obligations of the licensee under any other contract entered into *bona fide* before the vesting date not being a contract relating to the borrowing or lending of money.

(b) All the assets specified in clause (a) (i) shall vest in the Government free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking:

Provided that such debts, mortgages or obligations shall attach to the compensation payable under this Act for the assets.

(3) In the case of all undertakings which vest in the Government under this Act, the licence granted or the sanction given for the supply of electricity shall be deemed to have been terminated on the vesting date and all the rights, liabilities and obligations of the licensee under any agreement to supply electricity entered into before that date shall devolve on the Government;

Provided that where any such agreement is not in conformity with the rates and conditions of supply approved by the Government and in force on the vesting date, the agreement shall be voidable at the option of the Government.

(4) In respect of any undertaking which vests in the Government, the Government may after removing any obstruction that may be offered, forthwith take possession of the entire undertaking or, as the case may be, of the fixed assets and of all documents, relating to the undertaking which the Government may require for carrying it on.

7. *Appointment of a sole representative.* (1) Every licensee may, within three months of the receipt of an order under Section 4, sub-section (1), intimating the vesting date or where the undertaking was taken over before the commencement of this Act, within three months of such commencement, appoint an individual who may be the managing agent or a director or an Officer of the licensee or any other person to act as his sole and accredited representative in connection with the handing over of the undertaking or the fixed assets, as the case may be, to the Government and performing on behalf of the licensee the functions hereinafter specified.

(2) Where the licensee is a company registered under the Indian Companies Act, 1913 (Central Act VII of 1913), the appointment of the accredited representative shall be made by the share holders of the company at a meeting specially convended for the purpose.

(3) Where the accredited representative resigns or dies or becomes incapable of acting or is in the opinion of the Government incompetent or dishonest, or where the appointment of such representative is set aside or declared void by competent authority, the Government shall call upon the licensee, to appoint within six weeks, another person as his sole and accredited representative.

(4) The remuneration of, and the expenditure incurred by the accredited representative shall be payable from the compensation deposited under this Act and shall have priority over all other debts and liabilities.

(5) All assurances conveyed, and all statements made, by such representative (inclusive of a representative whose appointment is subsequently set aside or declared void by competent authority) shall be binding on the licensee.

(6) Where the licensee does not appoint an individual to Act as his sole and accredited representative under sub-section (1) or sub-section (3), the functions hereinafter assigned to the accredited representative shall be performed by the licensee; and all references in the rest of this Act to the accredited representative shall be construed as references to the licensee and any reference to a period of time to be reckoned from the date of appointment of the accredited representative shall, in such a case, be reckoned from the last date on which such accredited representative could have been appointed.

8. *Choice of basis of compensation.* (1) Within one month of his appointment, or such further time as may be granted by the Government, the accredited representative shall intimate to the Government in writing which basis of compensation A, B or C, shall be adopted in respect of the undertaking.

(2) The choice of the basis of compensation once intimated to the Government shall not be open to revision except with their concurrence.

(3) Where no choice has been intimated on behalf of the undertaking within the time allowed by sub-section (1), the Government shall declare the basis under which compensation will be paid for the undertaking and that basis shall be binding on the licensee as if the choice had been duly made in accordance with the foregoing provisions.

9. *Effect of transactions not bona fide.* Where the Government are of opinion that any licensee, has on or after the 1st October 1951, disposed of any fixed asset whether by way of sale, exchange, gift, lease or otherwise or incurred capital expenditure, otherwise than in the normal course of events with a view to benefit unduly the licensee or some other person and thereby caused loss to the Government as succeeding owners of the undertaking, the Government shall be entitled to deduct from the compensation payable to the licensee under this Act, an amount which they consider to be the loss sustained by them:

Provided that notice of the intention to make such deduction shall be given to the licensee within one year from the vesting date.

10. *Deductions from the compensation.* (1) The Government shall be entitled to deduct the following sums from the compensation payable under this Act to a licensee :—

(*a*) the amount, if any, already paid in advance by way of compensation ;

(*b*) the amount, if any, specified in Section 9 ;

(*c*) the amount due, if any, from the licensee to the Government for energy supplied by the Government before the vesting date ;

(*d*) all other amounts and arrears of interest, if any, thereon due from the licensee to the Government, except loans and arrears of interest, if any thereon ;

(*e*) the amount, if any, equivalent to the loss sustained by the Government by reason of any property or rights belonging to the undertaking not having been handed over to the Government, the amount of such loss being deemed to be:—

(i) in cases where compensation is payable under Basis A or Basis B, the market value on the vesting date of such property or rights, together with any income which might have been realised by the Government if the property or rights had been handed over on the vesting date ; and

(ii) in cases where compensation is payable under Basis C, the amount by which the market value of such property or rights exceeds the compensation payable therefor under this Act, together with any income which might have been realised as aforesaid.

(2) In addition to the deductions specified above, the Government shall also be entitled to make the following deductions :—

(a) in cases where the compensation is payable under Basis A or Basis B, any sum which during a period not exceeding three consecutive account years immediately before the vesting date, has been distributed as profits, but is not correctly so distributable ;

(b) in cases where the compensation is payable under Basis C—

(i) the amount of all loans due from the licensee to the Government and arrears of interest, if any, thereon ;

(ii) a portion of the amount of solatium bearing the same proportion to the total amount of solatium, as the amount of all loans due to the Government from the licensee on the vesting date bears to the aggregate of—

(a) the paid up share capital of the licensee not being a local authority, or the value of the capital assets as shown in the capital account of the undertaking in the case of a licensee being a local authority,

(b) his debenture capital, and

(c) the amount of all loans due to the Government as aforesaid ;

(iii) all sums paid by consumers by way of security deposit and arrears of interest due thereon on the vesting date in so far as they have not been paid over by the licensee to the Government, less the amounts which according to the books of the licensee are due from the consumers to the licensee for energy supplied by him before that date ;

(iv) all advances from consumers and prospective consumers, and all sums which have been or ought to be set aside to the credit of the consumers' fund in so far as such advances or sums have not been paid over by the licensee to the Government ;

Explanation :—For the purpose of this sub-clause, "consumers' fund" shall, in the case of the undertaking of a licensee being a local authority, mean the amount referred to as such in the bulk supply agreement or, where no such reference has been made in the bulk supply agreement, the net profits of the undertaking remaining after effecting the appropriations to the general funds of the local authority, in accordance with the terms of the said agreement. In the case of the undertaking of a licensee other than a local authority, for any account year prior to the date on which the Sixth Schedule to the Electricity Supply Act

came into force in the State, it shall mean the amount referred to as such in the bulk supply agreement and, for any account year on and from the said date, it shall mean the amount specified in paragraph II (1) of the said Schedule as the amount to be set apart for distribution to consumers;

(v) all deposits made by, and all sums due to, the staff transferred to the Government, on account of Provident Fund or other beneficial schemes, in so far as such deposits or sums have not been paid over by the licensee to the Government, less the amounts which the Government are satisfied are due to the licensee from the members of the staff so transferred:

Provided that no deduction shall be made in pursuance of paragraph (v), in so far as the deposits or sums aforesaid may lie in the custody of trustees under a valid deed of trust.

(3) In the case referred to in the foregoing proviso the Government shall have power to require the trustees to transfer the funds with them, and the securities and other properties, if any, in which the same may have been invested, in so far as they may relate to the staff transferred to the Government ; and the trustees shall be completely discharged in respect of all claims to, or enforceable against, the funds, securities and other properties so transferred.

11. *Manner of payment or deposit of compensation.* (1) The compensation due to a licensee under this Act shall be paid or deposited in cash or by way of stocks or Government bonds as hereinafter provided in this section.

(2) Within four months from the vesting date in the case of an undertaking which vests in the Government in pursuance of an order under Section 4, sub-section (1), and as soon as may be after the commencement of this Act in the case of an undertaking taken over by the Government before such commencement, the Government shall estimate roughly the compensation payable to the licensee under this Act.

(3) Three-fourths of the amount as so estimated shall be paid by the Government to the licensee, where it is a local authority after deducting the amounts referred to in Section 10.

(4) In the case of any other licensee, the Government shall deposit in any Bank chosen by the Government for the purpose (which Bank is hereinafter referred to as the Bank) three-fourths of the amount as estimated under sub-section (2), after deducting therefrom the amounts referred to in Section 10. Of such amount to be deposited one-third shall be in cash and the balance by way of fixed interest bearing stocks or bonds to be issued by Government redeemable within 10 years or the entire amount may be deposited in cash as the Government may decide.

Explanation:—Where the amount to be paid or deposited under sub-section (3) or this sub-section is equal to or less than

the amount to be deducted therefrom as aforesaid, no payment or deposit need be made under sub-section (3) or this sub-section.

(5) (*a*) Within one year from the date on which the compensation was estimated under sub-section (2), the Government shall determine the amount of compensation payable in respect of the undertaking and pay to the licensee or deposit in the Bank the balance left from the amount aforesaid after deducting therefrom, (i) the amounts referred to in Section 10 and (ii) the payment or deposit previously made under sub-section (3) or sub-section (4), as the case may be.

(*b*) Where the accredited representative claims that compensation is due to the licensee over and above that as determined by the Government under clause (*a*), the amount if any, to which it is finally decided in pursuance of this Act that the licensee is entitled, shall be paid to the licensee or deposited in the Bank, as the case may be, within one month from the date on which such final decision is arrived at.

(*c*) All amounts liable to be paid or deposited in pursuance of clause (*a*) or clause (*b*) shall bear interest at three per cent per annum from the date of expiry of four months from the vesting date.

(6) In the case referred to in the Explanation to sub-section (4), that is to say, where no payment or deposit has been previously made, the Government shall pay to the licensee or deposit in the Bank the amount of compensation determined under clause (*a*) of sub-section (5), after deducting therefrom the amounts referred to in Section 10 together with interest on the amount to be paid or deposited, at three per cent per annum from the date of expiry of four months from the vesting date.

(7) The amount of compensation as estimated under sub-section (2) and the amount of compensation as finally determined under sub-section (5) shall be intimated forthwith to the accredited representative and he shall, within two weeks of such intimation or such further time as may be allowed by the Government, state in writing whether the amount as determined by the Government is agreed to by him acting on behalf of the licensee.

(8) Every person claiming any amount deposited in the Bank under the foregoing sub-sections, or any portion thereof, shall apply to the Special Officer appointed by the Government in this behalf, within three months from the date of the deposit or within such further time as the Special Officer may allow.

(9) (*a*) The Special Officer shall, as expeditiously as possible, inquire into all claims made under sub-section (8) and determine the persons who, in his opinion, are entitled to the amount deposited and the sum to which each of them is entitled and disburse the same to him.

(*b*) The Special Officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit in respect of the following matters:—

(i) enforcing the attendance of any person and examining him on oath;

(ii) compelling the production of documents; and

(iii) issuing commissions for the examination of witnesses.

The Special Officer shall also have such further powers as may be prescribed.

(*c*) Any person deeming himself aggrieved by any decision of the Special Officer under clause (a) may appeal to the High Court, within three months from the date of such decision or within such further time as the High Court may grant.

12. *Repayment of debentures, loans etc.* Notwithstanding anything to the contrary in any contract or agreement or in any law for the time being in force, all loans, debentures, mortgages and the like outstanding against the licensee on the vesting date may be repaid by the Government, or the licensee or the Special Officer, although the time for their repayment may not have arrived.

13. *Arbitration.* (1) Where any dispute arises between the accredited representative and the Government in respect of any of the matters specified below or such other matter as may be prescribed, it shall be determined by an arbitrator appointed by the Government who shall be a District Judge or a person who is a retired High Court Judge or a retired District Judge:—

(*a*) the amount of the compensation payable in respect of the undertaking as a whole or any component part thereof;

(*b*) whether any property belonging, or any right, liability or obligation attaching, to the undertaking vests in the Government;

(c) whether any fixed asset forms part of the undertaking;

(*d*) whether any contract or hire-purchase agreement or other contract referred to in Section 6 (2) (a) (ii) or (iii) has been entered into *bonafide* or not;

(*e*) whether any agreement to supply electricity entered into by the licensee prior to the vesting date is of the nature referred to in Section 6, sub-section (3), proviso;

(*f*) whether the Government are entitled to deduct any sum under Section 9 or Section 10.

(2) Subject to the provisions of this section, the provisions of the Arbitration Act, 1940 (Central Act X of 1940) shall apply to all arbitrations under this Act.

(3) The arbitrator may, if he thinks it expedient to do so, call in the aid of one or more qualified assessors and hear the whole or any part of the reference with the aid of such assessor or assessors.

14. *Termination of managing agency.* (1) Any agreement between the licensee and his managing agent or managing director (by whatever name known) shall, notwithstanding anything to the contrary in such agreement, be deemed to have been terminated on the vesting date, in so far as it relates to the undertaking, and the managing agent or managing director shall not be entitled to any remuneration or commission for such period of the agreement as may remain unexpired on the vesting date but shall be entitled only to compensation as determined under sub-section (2).

(2) Where the agreement was in force on the 1st April 1955 and continued to be in force until the vesting date, without having been renewed or replaced by a fresh agreement for a further period, the managing agent or managing director shall, for such period of the agreement as may remain unexpired on the vesting date or for a period of two years, whichever is less, be entitled to compensation calculated at the following rate per annum, namely :—

The average annual ordinary remuneration (including purchasing commission and office allowance) to which a managing agent of the licensee would have been entitled under paragraph XIII of the Sixth Schedule to the Electricity Supply Act during a period of two complete account years immediately preceding the vesting date.

(3) Any amount payable to a managing agent or managing director under sub-section (1) shall be payable from the compensation deposited under this Act.

15. *Provisions for existing staff of licensees.* Notwithstanding anything to the contrary in any contract or agreement or in any law for the time being in force, the following provisions shall apply in regard to the persons on the staff of the licensee immediately before the vesting date :—

(1) The Government shall have power to terminate the services of any such person after giving him three calendar months' notice in writing or paying him in lieu of such notice one month's pay for each year of service rendered under the licensee, subject to a maximum of three months' pay.

(2) Persons whose services are retained shall be governed by such rules as the Government may, from time to time, make in regard to them.

16. *Inventory of assets and information in regard to documents maintained by the licensee.* (1) Every licensee shall within three months from the date on which an order under Section 4, sub-section (1), is served on him, or such further time

as may be allowed by the Government, prepare and hand over to them a complete inventory of all the assets belonging to his undertaking and of its documents.

(2) The licensee shall also write up the accounts of his undertaking up to the vesting date, get them audited, and submit them to the Government within three months from that date or such further time as may be granted by the Government.

(3) The licensee shall also, within such time as may be specified by the Government, furnish to them such information and particulars as may be required by the Government in regard to the documents relating to the undertaking.

(4) The licensee shall not destroy any document relating to the undertaking and shall hand over to the Government on the vesting date all such documents in cases falling under Section 6, sub-section (1), and in cases falling under Section 6, sub-section (2), all such documents as are necessary for ascertaining the assets of the undertaking, the rights, liabilities and obligations attaching thereto or the terms of employment of the staff and for determining the compensation payable for the undertaking under this Act.

(5) Where the documents aforesaid have been taken possession of by the Government, the licensee, or any person authorised in this behalf, shall have access to such documents at all reasonable times and shall also be entitled to take copies thereof or extracts therefrom.

17. *Power of entry.* Any officer or servant of the Government authorised by the Government in this behalf by general or special order may, at any time, after giving the licensee reasonable notice, enter upon any land or premises in his possession and make any survey, examination or investigation preliminary or incidental to the purposes of this Act.

18. *Penalties.* (1) Whoever, being required to furnish any information or make any statement under this Act, furnishes any information or makes any statement which he knows to be false, or whoever wilfully fails to hand over to the Government any fixed asset belonging to the undertaking or wilfully suppresses or destroys any document which is to be handed over to the Government under Section 16, sub-section (4), shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees or with both and in the case of a continuing offence with an additional fine which may extend to five hundred rupees, for every day after the first during which the offence continues.

(2) Whoever fails, without reasonable cause, to comply with any of the provisions of this Act or the rules made thereunder, or any directions or order issued in pursuance thereof, shall, if the case be not governed by sub-section (1), be punishable with fine which may extend to twenty thousand rupees and in the case of a continuing offence, with an additional fine which may extend to five hundred rupees, for every day after the first during which the offence continues.

(3) Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), it shall be lawful for any Magistrate of the First Class specially empowered by the Government in this behalf to impose a sentence of fine exceeding one thousand rupees when awarding punishment under sub-section (1) or (2).

(4) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or of an officer authorised by them in this behalf.

19. *Offences by corporation.* Where a person committing any offence punishable under this Act is a company or an association or a body of persons, whether incorporated or not, the manager, secretary, agent or other principal officer managing the affairs of such company, association or body shall be deemed to be guilty of such offence.

20. *Protection of action taken under the Act.* No suit, prosecution or other legal proceeding shall lie against the Government or any officer or servant of the Government or any person acting under the direction of the Government or an officer or servant of the Government or aiding or assisting the Government or an officer or servant of the Government in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

21. *Power to make rules.* (1) The Government may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) all matters required or allowed by this Act to be prescribed;

(*b*) the manner of service of notices and orders under this Act;

(*c*) the obtaining of the particulars necessary for assessing the compensation under this Act;

(*d*) the appointment of auditors and their duties and remuneration;

(*e*) the inspection, checking and taking over of the assets and documents of an undertaking;

(*f*) the qualifications of, and the remuneration payable to the accredited representative;

(*g*) the procedure to be followed by the Special Officer under Section 11;

(*h*) the remuneration payable to an arbitrator appointed under Section 13;

(*i*) the manner of obtaining the information and particulars referred to in Section 16, sub-section (3).

(3) All rules made under this section shall be published in the Gazette and upon such publication shall have effect as if enacted in this Act.

22. *Effect of other laws.* (1) No provision of the Electricity Act or of the Electricity Supply Act or of the Trivandrum City Municipal Act, 1116 (Act IV of 1116), or of the Travancore District Municipalities Act, 1116 (Act XXIII of 1116), or of the Cochin Municipal Act XVIII of 1113 or of the Travancore-Cochin Panchayats Act, 1950 (Act II of 1950), or of any rule made under any of those Acts or of any instrument having effect by virtue of any of those Acts, or any rule made thereunder shall, in so far as it is inconsistent with any of the provisions of this Act, have any effect:

Provided that nothing in this Act shall be deemed to affect the operation of the Electricity Supply Act with regard to the constitution of the State Electricity Board and the exercise by the said Board of its functions under that Act.

(2) Save as otherwise, provided, in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Electricity Act and the Electricity Supply Act.

23. *Power to remove difficulties.* If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require do anything which appears to them necessary for the purpose of removing the difficulty.

A copy of every order passed under this section shall be laid before the Legislative Assembly.

SCHEDULE I.

(*See* Section 5 (1).)

Part A—*Applicable to a licensee not being a local authority.*

1. For purposes of section 5 (1) "net annual profit" shall, in respect of any account year subsequent to the date on which Section 57 of the Electricity Supply Act and the Sixth Schedule thereto came into force in the State, mean the excess of "income" over "expenditure" as defined below, *less* the sums referred to in paragraph 4 or, as the case, may be, *plus* the sums referred to in paragraph 5.

2. For the purposes of the foregoing paragraph, "income" means income derived from—

(i) gross receipts from the sale of energy, *less* discounts applicable thereto;

(ii) rental of meters and other apparatus hired to consumers;

(iii) sale and repair of lamps and apparatus;

(iv) rents;

(v) transfer fees;

(vi) investments, fixed and call deposits, and bank balances;

(vii) other general receipts accountable in the assessment of Indian Income-tax and arising from and ancillary or incidental to the business of electricity supply.

3. For the purposes of paragraph 1, "expenditure" means the expenditure incurred on—

(i) generation and purchase of energy;

(ii) distribution and sale of energy ;

(iii) rents, rates and taxes, other than all taxes on income and profits ;

(iv) interest on loans;

(v) interest on security deposits ;

(vi) legal charges ;

(vii) bad debts ;

(viii) auditors' fees ;

(ix) management, including managing agents' remuneration as provided for in paragraph XIII of the Sixth Schedule aforesaid ;

(x) depreciation, calculated on a flat rate basis as specified in Schedule II ;

(xi) other expenses admissible under the law for the time being in force in the assessment of Indian Income-tax and arising from and ancillary or incidental to the business of electricity supply ;

(xii) contributions to Provident Fund, staff pension, gratuity and apprentice and other training schemes.

4. The sums referred to in paragraph 1 as those to be deducted from the excess of "income" over "expenditure" are :—

(a) the appropriations to the consumers' fund for purposes of distribution to consumers, where such appropriations are necessary by virtue of paragraph II (1) of the Sixth Schedule aforesaid ;

(b) the contributions to the tariffs and Dividend Control Reserve, where such contributions are necessary by virtue of paragraph II (1) aforesaid ; and

(c) the taxes paid or payable, in respect of the appropriations and contributions aforesaid, as taxes on income and profits.

5. The sums referred to in paragraph 1 as those to be added to the excess of "income" over "expenditure" are :—

(a) the appropriations from the tariffs and Dividend Control Reserve to the extent necessary by virtue of paragraph II (2) of the Sixth Schedule aforesaid ; and

(b) the taxes paid or payable, in respect of the appropriations aforesaid as taxes on income and profits.

Part B.—Applicable to a licensee being a local authority.

For the purpose of Section 5 (1), 'net annual profit' in respect of any account year of a licensee being a local authority shall be, (i) the amount actually appropriated, or (ii) the amount which could have been appropriated, to the general funds of the local authority on account of the undertaking for that account year in accordance with the audited accounts of the undertaking.

SCHEDULE II.

[*See* Section 5 (3)]

For purposes of payment of compensation under Section 5 (3), the depreciation shall be calculated at annual rates arrived at by dividing ninety per cent of the book-value of each asset by the number of years of life of the asset as specified in the table below. For the account year in which an asset was brought into beneficial use, the depreciation shall be calculated at half the annual rate and for the period after the last account year to the date of taking over, the depreciation shall be calculated *pro rata*. Depreciation shall not be calculated for any period beyond the life of the asset as prescribed herein.

TABLE.

Description of asset.	*No. of years or period.*
A. Land owned under full title	Infinite.
B. Land held under lease—	
(a) for investment in the land	The period of the lease or the period remaining unexpired on the assignment of the lease.
(b) for cost of clearing site	The period of the lease remaining unexpired at the date of clearing the site.
C. Assets purchased new :—	
(a) Plant and machinery in generating stations including plant foundations. Diesel ; electric.	Fifteen.
(b) Cooling towers and circulating water systems.	Thirty.
(c) Buildings and civil engineering works of a permanent character, not mentioned above—	
(i) Offices and show-rooms	Fifty.

(ii) containing thermo-electric generating plant	Thirty.
(iii) temporary erections such as wooden structures	Five.
(iv) others	Fifty.
(d) Transformers, transformer kiosks, sub-station equipment and other fixed apparatus (including plant foundations)—	
(i) transformers (including foundations) having a rating of 100 kilovolt amperes and over	Thirty-five.
(ii) others	Twenty-five.
(e) Switchgear, including cable connections.	Twenty.
(f) Batteries	Ten.
(g) (i) Underground cables, including joint boxes and disconnecting boxes.	Forty.
(ii) Cable duct system	Sixty.
(h) Overhead lines including supports—	
(i) lines on steels or reinforced concrete supports.	Twenty-five.
(ii) lines on wood supports	Twenty.
(i) Meters	Fifteen.
(j) Self-propelled vehicles	Seven.
(k) Static machine tools	Twenty.
(l) Air conditioning plant.	
(i) Static	Fifteen.
(ii) Portable	Seven.
(m) (i) Office furniture and fittings.	Twenty.
(ii) Office equipment	Ten.
(n) Apparatus let on hire—	
(i) other than motors	Seven.
(ii) motors	Twenty.
D. Assets purchased second hand and assets not otherwise provided for in this table.	Such reasonable period as the Government determine in each case, having regard to the nature, age and condition of the asset at the time of its acquisition by the Government.

STATEMENT OF OBJECTS AND REASONS.

The work relating to generation, transmission and distribution of electricity in the State is now almost entirely in the hands of Government except for certain areas which are covered by licences granted under the Electricity Act. The licences were given on the distinct understanding that the licensees would generate the necessary power and distribute it to the consumers in their respective areas. But with the development of hydro-electric power, most of the licensees have ceased to generate power and are taking bulk supplies of hydro-electric power from the Government at a cheap rate for distribution to the consumers. For the more efficient supply of electrical energy, which has become one of the basic necessaries of life and in the public interests it is considered necessary that the business and service of the generation and supply of electricity should be carried on by the State to the complete exclusion of all other persons inclusive of citizens and local authorities. The Bill is intended to empower the Government to acquire private undertakings supplying electricity in the State on payment of suitable compensation.

K. I. VELAYUDHAN.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the acquisition of the undertakings of private licensees on payment of compensation. There are five major electric installations and a few minor electric installations in the State, which have to be acquired under the provisions of the new Bill. It is estimated that a sum of Rs. 37,51,000 has to be paid as compensation for acquiring these undertakings. This is a non-recurring expenditure. Clause 11 (8) of the Bill provides for the appointment of a Special Officer for settling claims and Clause 13 (1) makes provision for the appointment of an Arbitrator to settle disputes between the accredited representative and Government. The non-recurring expenditure anticipated under these two categories is Rs. 10,000 and Rs. 20,000 respectively. Clause 15 (1) of the Bill requires the payment of compensation up to three months' pay to persons on the staff of the undertaking whose services are terminated by Government. Almost all the staff now working in the undertakings are likely to be absorbed in Government service at the time of taking over and only those who are unqualified and over-aged, are likely to be thrown out of service. For paying compensation for such persons, a sum of about Rs. 50,000 will have to be incurred as a non-recurring item of expenditure. The total non-recurring expenditure involved under the various items comes to Rs. 38,31,000. Against this outlay, the annual gross revenue expected, comes to Rs. 17,79,000 and working expenses to Rs. 9,05,000 thus making a net revenue of Rs. 8,74,000 per annum.

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